

IN THE UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF
ROANOKE VIRGINIA

(W)

KELVIN A. CANADA,
plaintiff

vs.

7:13-CV-00322

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

JUL 17 2013

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

RANDALL MATHENA, WARDEN, et al
defendant(s)

USC #42 - 1983 / CIVIL COMPLAINT

I plaintiff KELVIN A. CANADA #1050088
hereby file this (1983 - CIVIL
COMPLAINT) REGARDING ME:

(CRUEL AND UNUSUAL PUNISHMENT)
plaintiff WAS SUBJECTED TO ON:

(MARCH 30th - THRU - APRIL 1st, 2013)

By the defendant(s) listed
below:

* PARTIES *

#1. plaintiff KELLIN A. CANADA #1050088
IS A PRISONER HOUSED AT:
(RED UNION STATE PRISON) AND WAS
A PRISONER AT: (ROSP) ON:
(MARCH 30 - THRU - APRIL 1st, 2013)
WHEN HE WAS SUBJECTED TO
CRUEL AND UNUSUAL PUNISHMENT AND
DUE PROCESS VIOLATION.

#2. DEFENDANT, WARDEN RANDALL MATHELA -
IS AND WAS THE WARDEN OF
(RED UNION STATE PRISON) ON:
(MARCH 30 - THRU - APRIL 1st, 2013)
WHEN PLAINTIFF 8th, AND 14th
AMENDMENTS WAS TRANSGRESSED
IS BEING IN HIS:
(OFFICIAL AND INDIVIDUAL CAPACITY)...

* PARTIES, CONT. *

#3. DEFENDANT, Lt. ANTHONY MULLINS -
IS AND WAS A (Lt.) AT:
(RED OILION STATE PRISON) WHEN
PLAINTIFF WAS SAVISTICALLY PLACED
ON: (STRIP-CELL) ON:
(MARCH 30TH 2013) IS BEING
SUED IN HIS (INDIVIDUAL) CAPACITY.

#4. DEFENDANT, Lt. STILL - IS AND WAS
THE (Lt.) AT: (RED OILION
STATE PRISON) WHEN PLAINTIFF
WAS SAVISTICALLY PLACED ON:
(STRIP-CELL) ON: (MARCH,
30TH, 2013) IS BEING SUED
IN HIS (INDIVIDUAL) CAPACITY.

#5. DEFENDANT, Sgt. J. KISER - IS AND
WAS THE (Sgt.) AT: (KOSP) WHEN
PLAINTIFF WAS SAVISTICALLY PLACED ON:
(STRIP-CELL) ON: (MARCH 30TH AND
31ST, 2013) IS BEING SUED IN HIS
(INDIVIDUAL) CAPACITY..

* PARTIES, CONT. *

#6. DEFENDANT, LT. STEVE FRANKLIN -
WAS AND IS THE (LT.) AT:
(RED OXION STATE PRISON) WHEN
PLAINTIFF WAS AND HAD BEEN ON:
(STRIP-CELL) FOR OVER (24-
HOURS) ON: (MARCH 31st 2013)
IS BEING SUED IN HIS
(INDIVIDUAL) CAPACITY VIA
(DELIBERATE INDIFFERENCE) ..

#4.

* Claim *

#1. ON: MARCH 30th, 2013 PLAINTIFF
KEVIN A. CANADA WAS PLACED ON
(strip-cell) by DEFENDANT(S)

#1. Lt. Mullins

#2. Sgt. Kiser

#3. Lt. Still

for allegedly having my cell -
window covered up...

#2. plaintiff was sadistically kept
on this (strip-cell) status
from: (MARCH 30th, - THRU - APRIL
1st, 2013) by all the defendant(s)
denying plaintiff:

#1. Any hygiene items to
brush his TEETH, wash
his face or body..

#2. ANY (T-shirt), (socks),
OR shoes...

for 2-days...

#5

* CLAIM, CONT. *

#3. THEREFORE PLAINTIFF WAS SADISTICALLY DENIED THE OPPORTUNITY TO:

- #1. BRUSH HIS TEETH
- #2. WASH HIS FACE OR BODY
- #3. RECEIVE ANY CLEAN LAUNDRY
- #4. RECEIVE HIS MATTRESS
- #5. RECEIVE ANY SHOES, T-SHIRT, OR SOCKS TO KEEP HIM WARM FROM THE COLD-CELL

FOR 2-DAYS...

#4. PLAINTIFF FILED (COMPLAINT # 01248) REGARDING HIM BEING PLACED ON (STRIP-CELL) FOR 2-DAYS THIS COMPLAINT WAS NEVER RESPONDED TO. SO ON: (██████ April 18th, 2013) PLAINTIFF FILED A REGULAR GRIEVANCE # (ROSP-13-REG-00489) REGARDING PLAINTIFF BEING PLACED ON: (STRIP-CELL) FOR 2-DAYS...

* CLAIM, CONT. *

#5. ON: (MAY 16, 2013) WARDEN R. MATHENA RESPONDED TO THIS APRIL 19TH, 2013 GRIEVANCE PROCLAIMING THAT PLAINTIFF WAS PLACED ON (STRIP-CELL) FOR:

" THEY properly item you WAS USING TO PRESENT A SECURITY BREACH OF SECURITY WERE REMOVED FROM YOUR CELL, AND YOUR PROPERTY WAS SEARCHED FOR CONTRABAND. WHEN YOUR DISRUPTIVE BEHAVIOR CEASED AND YOU BECAME COMPLIANT WITH STAFF YOUR PROPERTY ITEMS WERE RETURNED "...

SEE EXHIBIT #1

#6. WARDEN R. MATHENA RESPONSE WAS COMPLETELY A LIE BECAUSE:

#1. VIDEO EVIDENCE FROM C3-POD RAPID-EYE CAMERA FROM →

* claim, cont. *

#6, CONTINUED FROM PAGE #7

#1, cont. from, page #7

#1. MARCH 30th, - THUR-
APRIL 1, 2013 WILL CLEARLY
PROVE THAT NOTHING WAS
EVER TOOKEN OUT MY
CELL # C3 - #318 BUT MY
PROPERTY AND THAT MY
PROPERTY WAS NEVER SEARCHED
AND THAT MY PROPERTY SAT IN
FRONT OF MY CELL FOR 2-DAYS
UN-SEARCHED.

#2. BECAUSE THE ENTIRE 2-
DAYS THAT PLAINTIFF WAS
SATISTICALLY KEPT ON (STRIP-
CELL), THERE IS NOT
ONE - INCIDENT REPORT ON
CHARGE TO PROVE THAT
PLAINTIFF WAS KEPT ON
(STRIP-CELL) FOR 2-DAYS
FOR BEING DISRUPTIVE...

#8

* CLAIM, CONT. *

#7. This only proves that plaintiff was placed in: (strip-cell) sadistically and was kept in: (strip-cell) for (2-days) sadistically because:

#1. plaintiff never received any charge for allegedly covering his window in: (march 30, 2013)

#2. plaintiff property was never searched for contraband as warden matrena falsely proclaimed in exhibit #1.

#3. plaintiff never received any (charge) or no (incident-report) while he was in (strip-cell) for (2-days) to prove that he had been disruptive...

* CLAIM, CONT. *

#8. FORMER U.S. WESTERN DIST.,
CHIEF JUDGE JAMES P. JONES
STATED IN:

(SADLER VS. YOUNG, 325
F. SUPP. 2D 689; 2004), page #4

VERBATIM:

" SUCH INACTION PROVIDES
AN INDEPENDENT BASIS FOR
FINDING THE SUPERVISOR
EITHER WAS DELIBERATELY
INDIFFERENT OR ACQUIESCED
IN THE CONSTITUTIONALLY
OFFENSIVE CONDUCT OF HIS
SUBORDINATES. CAUSATION MAY
BE DIRECT, WHERE THE
POLICY COMMANDS THE
INJURY, OR PROXIMATE
PURSUANT TO THE TORT
PRINCIPLE ".....

#9. WARDEN R. MATTHEWS IS VIVIDLY AWARE
OF HIS SUBORDINATE ABUSING
THIS (STUP - CELL) PRACTICE BY →

* CLAIM, CONT. *

#9, CONTINUED FROM PAGE #10

PLACING PRISONERS ON (STRIP-CELL) SADISTICALLY FOR DAYS OVER

#1. COVERING THEIR CELL-LIGHTS.

#2. COVERING THEIR CELL-WINDOW!

#3. KICKING THEIR CELL-DOOR!

#4. FLOODING THEIR CELLS.

WHICH ARE INCIDENTS THAT DOES NOT QUALIFY BEING PLACED ON (STRIP-CELL) ACCORDING TO PRISON POLICIES, ESPECIALLY FOR 2-DAYS. THIS ARBITRARY USE OF (STRIP-CELL) FOR THESE REASONS STATED ABOVE IS WHAT JUDGE JAMES P. JONES IN: (SADLER VS. YOUNG) IS REFERRING TO.

* CLAIM, CONT. *

#10. Chief Judge JAMES P. JONES further stated in:
(SADLER vs. YOUNG, pg #14)

Verbatim:

"When the immediacy of the disturbance is at an end... the unnecessary infliction of continued pain throughout a prolonged time period clearly supports an inference that the guards was acting to punish, rather than quell the disturbance"...

#11. It's self-evident that plaintiff was kept in (strip-cell) for 2-days from "March 30th - thru April 1st, 2013" to be punished and not to quell any disturbance..

#12

* CLAIM, CONT. *

#12. so for there entire 2-days
Defendant(s)

- #1. Lt. Mullins
- #2. Lt. Still
- #3. Sgt. Kiser

sadistically left plaintiff on
(strip-cell) for 2-entire days.
Almost completely denied in
a freezing cell, with no [REDACTED],
clothes, soap, toothpaste, toilet-
paper, sheets or blankets...

#13. Defendant, Steven Franklin
was not present on: (March,
30th 2013) when plaintiff was
placed on: (strip-cell), however
he worked on (March 31, 2013)
as the Building (Lt.) and was
aware of my (strip-cell)
status and did not intervene
knowing that plaintiff had not been
disruptive since he been on
(strip-cell)...

* CLAIM, CONT. *

#14. BECAUSE OF THE SADISTIC ACTS OF ALL THE ABOVE-MENTIONED DEFENDANT(S) PLAINTIFF WAS FORCED TO LIVE UN-SANITARIUM IN A CELL FOR (2-DAYS) WITHOUT BEING ABLE TO:

- #1. SHOWER.
- #2. WASH MY FACE.
- #3. BRUSH MY TEETH.
- #4. WASH MY HANDS BEFORE I ATE MY MEALS.
- #5. WIPE MYSELF AFTER USING THE (TOILET).

#15. ALONG WITH:

- #1. NOT BEING ABLE TO SLEEP DUE THE EXTREME COLDNESS OF THE CELL.
- #2. BEING COMPLETELY NUDE EXCEPT FOR BOXERS

#14

* CLAIM, CONT. *

#16. All these Act clearly constitute "Cruel and Unusual Punishment" in Transgression of Plaintiff's 8th Amendment.

#17. Plaintiff "14th Amendment" (Due Process) Rights was also Transgressed e.g. :

IN: (SANDIN VS. CONNER, 515 U.S. 472, 484, 132 "1995")

THE SUPREME COURT RULED :

" STATE PRISON RULES CREATES A LIBERTY INTERESTS THAT ARE PROTECTED BY THE (DUE PROCESS CLAUSE) WHEN THEY IMPOSES AN ATYPICAL AND SIGNIFICANT HANDSHIP ON THE INMATE IN RELATION TO THE ORDINARY INCIDENT OF PRISON LIFE."

* claim, cont. *

#18. ALSO the 4th CIRCUIT
RULED IN:

(BEVARANTI vs. SMITH, 120
F.3d 500, 503 "4th CIR. 1997").

Verbatim:

"THE ORDINARY
INCIDENT OF PRISON LIFE
DOES NOT INCLUDE
(STRAPPING AN INMATE'S
WRIST, ANKLES, AND
CHEST TO A BED FOR NEARLY
TWO DAYS"...

#19. THE SAME CONSTITUTIONAL PRINCIPLE
APPLIES TO PLAINTIFF BEING SAVISTICALLY
LEFT ON: (STRIP-CELL) FOR
2-DAYS ALMOST DENUDED IN
A FREEZING CELL. BEING PLACED ON
(STRIP-CELL) FOR 2-DAYS IS NOT
A PART OF "ORDINARY PRISON
LIFE"....

* CLAIM, CONT. *

#20. THEREFORE PLAINTIFF (14th - CONSTITUTIONAL) "DUE PROCESS - RIGHTS" WAS CLEARLY TRANSGRESSED BY ALL THE DEFENDANT(S) FROM (MARCH 30th, - THROUGH - APRIL 1st, 2013) BECAUSE PLAINTIFF WAS NEVER AWARDED THE RIGHT TO CHALLENGE HIS CONDITION OF (strip-cell) WHICH WAS BLATANTLY (ATYPICAL) ..

#21. IN: (WILLIAMS VS. BENJAMIN) THE COURTS RULED:

" THE FOURTH - CIRCUIT STATES THAT (AT SOME POINT IN TIME) A RESTRAINED INMATE IS ENTITLED TO SOME PROCEDURAL PROTECTION TO ENSURE THAT HIS "LIBERTY - INTEREST" WAS NOT ARBITRARILY AND CAPRICIOUSLY DENIED"

* CLAIM, CONT. *

#22. plaintiff never received not
1 - institutional charge from
BUNY placed on: (strip-cell)
for: (2-days) and therefore
plaintiff was arbitrarily and sadistically
placed on (strip-cell) for
2-days in: violation of his
8th and 14th amendments
constitutional rights....

18

* RELIEF REQUESTED *

#1. PLAINTIFF REQUEST:

COMPENSATORY DAMAGES FROM
ALL DEFENDANT(S) FOR THE
AMOUNT OF: (\$5,000) EACH
FOR THE SADISTIC AND
UN-SANITARY CONDITIONS PLAINTIFF
WAS SUBJECTED TO FROM:
(MARCH 30 - THROUGH - APRIL 1, 2013)

#2. PLAINTIFF REQUEST:

PUNITIVE DAMAGES FROM
ALL DEFENDANT(S) FOR THE
AMOUNT OF: (\$2,000) EACH
FOR THE DELIBERATE TRANSGRESSIONS
OF PLAINTIFF'S 8TH AND 14TH
CONSTITUTIONAL AMENDMENTS..

* RELIEF REQUESTED, CONT. *

#3. plaintiff request:

INJUNCTIVE RELIEF - TO
BE IMMEDIATELY GRANTED TO
STOP: (RED UNION STATE
PRISON) AND THE ENTIRE
(VA. DEPT. OF CORRECTIONS)
TO STOP SADISTICALLY
(MIS-USING, AND ABUSING)

#1. 5-POINT RESTRAINTS
AND

#2. AMBULATORY - RESTRAINTS
PERMANENTLY

#4. plaintiff request:

VIDEO - CAMERA'S ARE USED
BY: (VA. CORRECTIONAL
OFFICERS / ADMINISTRATORS)
WHEN PRISONERS (RECREATION,
SHOWER, OR FOOD-TRAYS) ARE
VINDICTIVELY DENIED TO PREVENT
OFFICERS FROM USING THESE PRIVILEGES
AS A MECHANISM TO RETALIATE AGAINST
PRISONERS...